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United State District Court, District of Massachusetts January 10, 2022

John Joseph Moakley U.S. Courthouse

Civil Clerk's Office

One Courthouse Way

Boston Ma 02210

CC'd to

Eliza Mina

One City Hall Square

Boston Ma 02201

Kimberly Cole

125 Royal Dane Lane #17

Abington Ma 02351

RE: Kimberly Cole v. Boston Police Department

United States District Docket No. 1:21-cv-11981-PBS

Plymouth Superior Court Docket No. 2083CV00361

**Opposition to Defendants City of Boston's Motion to Dismiss the complaint and Defendants City of Boston's
Memorandum of Law in Support of its Motion to Dismiss the Complaint.**

Plaintiff is Opposing the Dismissal of the above mentioned Docket(s). Per the Defendant pursuant to Fed R Civ.P.12(B) (6) a Dismissal should be granted on the grounds that the Plaintiff failed to State a Claim under which relief can be granted . As a Pro Se litigant , the Plaintiff was not aware of a 1983 violation and had to await the arrival of Plaintiff's medical records, Medicare Summary Notice, and had ongoing care for the injury sustained on 5/31/2020 when tear gassed and running from Boston PD and falling in glass injuring L hand. Plaintiff was unable to provide the sufficient facts to support the negligence claim as the documentation was not yet available to Plaintiff. All documentation to date is now attached in this Filing response. The Medicare Summary Notice for Kimberly Cole for Claims Processed between September 7- December 6, 2021 (reflecting the Surgical / Occupational Hand Therapy Plaintiff has endured.) Please See Attached copies of prescriptions for pain management post operatively. Also see attached photographs from May 31 2020 Black Lives Matter Protest to reflect the Plaintiffs presence. In footnote 1 defendant notes "the Boston Police Department is a municipal department of the city rather than an independent legal entity that is subject to suit." Franklin v City of Boston. See previous filing regarding this statement of law. Plaintiff has explained that she could not individually identify the Police Officers that abused their power and attacked innocent civilians , Plaintiff and her fellow attendees that day as Plaintiff had her back turned and was running from the tear gas only the Boston Police Department would be able to state on the record who was working on the day in question.

The United States Justice and "The Violent Crime Control and Law Enforcement Act of 1994, 43 U.S.C §14141 (re-codified at 34 U.S.C. §12601), allows us to review the practice of law enforcement agencies that may be violating people's federal rights. If a law enforcement agency receives federal funding, we can also use the anti discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1986 and the title VI of the Civil Rights Act of

1964, which forbid discrimination on the basis of race, color, sex or national origin by agencies receiving federal funds. We may act if we find a pattern or practice by the law enforcement agency that systemically violates people's rights." Plaintiff asks the court to note the work from settlements and court orders regarding the aforementioned law that it serves the community at large by "increased transparency and data collection, community-police partnerships, steps to prevent discriminatory policing, independent oversight, improved investigation and review of uses of force, more effective training and supervision of officers, The reforms we obtain create models for effective and constitutional policing nationwide.". If the law works equally for all citizens then the justices must find in favor of the Plaintiff in order to allow for the above improvements necessary to enhance and improve the police department abilities to protect and serve the public. Per the Alternatives to Abuse pamphlet with information compiled in accordance with chapter 260 of the Acts of 2014 " There are programs and resources that offer information, help, treatment, and support for living a safe life in your home, with your family, and in your community. Deciding to change the first step. When people who abuse take responsibility for their behavior they can access help more easily and more successfully. It takes support to turn this decision into a commitment. It takes a commitment to learn healthy boundaries, respect others, have healthy relationships and stop being abusive." Finding in favor of the Plaintiff forces the Boston Police Department to train LEOS 'alternatives to coercive, dominating and violent behavior.' Council for the Defendants states under 7.1 certification " Eliza Mina spoke with Pro Se Plaintiff and was unable to resolve or narrow the issues." to clarify Mina informed Plaintiff that she intended to file to dismiss the case and Plaintiff replied that she would oppose that. Therefore there was no discussion of settlement or resolution or narrowing of the issues as stated in the Senior Assistant Corporation Counsels Statement.

CERTIFICATE OF SERVICE

I, Kimberly Cole , Pro Se Plaintiff certify that I have sent a copy of this Opposition To Dismiss to
United State District Court, District of Massachusetts John Joseph Moakley U.S. Courthouse Civil Clerk's Office One
Courthouse Way Boston Ma 02210. CC'd to Eliza Mina One City Hall Square
Boston Ma 02201

From
Kimberly Cole
125 Royal Dane Lane #17
Abington Ma 02351

Signed :

Dated: